

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

DAHKEEM MILLER; JOSE GUILTY;  
TRAVIS BUTLER; ARIAN PERALTA;  
GARY GARCIA, JR.; BOBBY DEE  
CRUZ, and ISAIAH MUHAMMAD,  
on their own behalf and on behalf  
of others similarly situated,

Plaintiffs,

-v-

CITY OF NEW YORK; CYNTHIA BRANN;  
TIMOTHY FARRELL; HAZEL JENNINGS;  
and BRENDA COOKE,

Defendants.

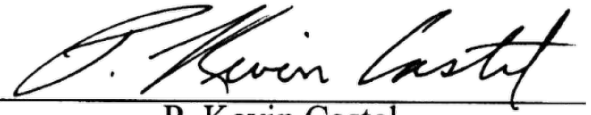
-----X

Case No. 21-cv-2616 (PKC) (KNF)

**ESI PROTOCOL**

**SO ORDERED.**

**Dated: 8/17/2022**



P. Kevin Castel  
United States District Judge

The parties in this action, after meeting and conferring on July 12 and August 4, 2022, have agreed on the following ESI Protocol to govern the preservation, collection and production of electronically stored information and documents in this action:

1. The email servers and hard drive computers<sup>1</sup> of the following thirty five custodians shall be subject to electronic search and review for any responsive documents created or distributed after January 1, 2015. The parties agree that this list is subject to modification based on the identification of additional relevant custodians via ongoing discovery:

- a. Cynthia Brann
- b. Ronald Brereton

---

<sup>1</sup> Defendants will make reasonable efforts to identify the hard drives of the computers belonging to the listed custodians for the relevant period. But most of the custodians are no longer employed by the Department of Correction and it may not be possible to identify such computers or hard drives in each case. Also, not every custodian may have had a specific computer assigned for their use.

- c. Shon Brown
- d. Yolanda Canty
- e. Brenda Cooke
- f. Timothy Farrell
- g. Patricia Feeney
- h. Delcis Ferreras
- i. Lilwania Glover
- j. Heidi Grossman
- k. Turhan Gumusdere
- l. Hazel Jennings
- m. Steven Kaiser
- n. Danielle Leidner
- o. Charlton Lemon
- p. Patricia Lyons
- q. Lynelle Maginley-Liddie
- r. Anna Marzullo
- s. Maxsolaine Mingo

- t. Louis A. Molina
- u. Raleem Moses
- v. Martin Murphy
- w. Luigi Ottaviano
- x. Joseph Ponte
- y. Elvis Ruiz
- z. Raymond Sanchez
- aa. Winette Saunders (Jackson)
- bb. Vincent N. Schiraldi
- cc. Kenneth Stukes
- dd. Brian Sullivan
- ee. Jeff Thamkittikasem
- ff. Kat Thomson
- gg. James Walsh
- hh. Freeman Williams
- ii. Email distribution list: [DL-OSIU@doc.nyc.gov](mailto:DL-OSIU@doc.nyc.gov)

2. Documents maintained by the custodians agreed to in Paragraph 1, *supra*, will be searched with the following search terms and the resulting selected documents uploaded to a Relativity database<sup>2</sup>:

- a. [restrictive or isolat!] /4 [housing or facility or unit] /p [“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]
- b. “problematic” /p [“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]
- c. [“High classification” or “high security” or “individual safety status” or “safety separation”] /p [“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]
- d. [“BOC” or “board” or “board of correction”] /p violat! /s “minimum standards” /p [“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]

---

<sup>2</sup> In some cases the logic of the native search software may not allow searches in the exact form listed here. In that case the parties will confer and agree on any variations in the search terms or search logic. The terms and connectors are as follows:

/s: terms are found within the same sentence

/p: terms are found within the same paragraph

/N: terms are found within N number of words

!: root expander

- e. “due process” /p [“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]
- f. “problematic individuals”
- g. “problematic inmate”
- h. “problematic inmates”
- i. “persistent threats”
- j. “special housing”
- k. [“enhanced restraint” or “CMC” or “OSIU”] /p [“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]
- l. [“COBA” or union] /p [“NIC” or “north infirmary command” or “West” or “WF”]
- m. [“super max” or “super-max” or “supermax”] /p [“NIC” or “West” or “WF” or “9S” or “9 south” or “nine South” or “nine (9) south”]
- n. [“behavior modification” or “high classification”] /p [“NIC” or “North Infirmary Command”]
- o. [“courage to change” or “getting it right” or “challenge programming”] /p [“NIC” or “North Infirmary Command”]
- p. Renovat! /p [“NIC” or “North Infirmary Command”]
- q. Progress! /s [review! or hearing] /p [“NIC” or “North Infirmary Command” or “OSIU”]

- r. [Dayroom or Dayrooms] /s [congregate or group or isolate or share!] AND  
[“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or  
“nine South” or “nine (9) south”]
- s. [OSIU or “operations security intelligence unit”] /p [place! or assign! or transfer  
or move] /p [inmate or person or prisoner or detainee] /p restrict! /s [house! or  
facility or unit] AND [“NIC” or “north infirmary command” or “West” or “WF”  
or “9S” or “9 south” or “nine South” or “nine (9) south”]
- t. [OSIU or “operations security intelligence unit”] AND [“security transfer” or  
“ERS transfer”] AND [“NIC” or “north infirmary command” or “West” or “WF”  
or “9S” or “9 south” or “nine South” or “nine (9) south”]
- u. [Notice or hearing or “due process”] /p restrict! /s [house! or facility or unit] AND  
[“NIC” or “north infirmary command” or “West” or “WF” or “9S” or “9 south” or  
“nine South” or “nine (9) south”]
- v. [Housing or unit! or facility or facilities] /s [“proven inadequate”] /p [“NIC” or  
“north infirmary command” or “West” or “WF” or “9S” or “9 south” or “nine  
South” or “nine (9) south”]

3. Defendants will complete collection within six weeks of filing of this Protocol.<sup>3</sup>

Defendants will provide Plaintiffs’ counsel with quantitative data on the results to the collection to the extent it is requested and available from the Relativity database and the parties will discuss whether modifications to search terms, custodians, and/or use of machine learning is necessary to address any burdens of production.

---

<sup>3</sup> In some cases, collection from hard drives from desktop computers may require more than six weeks. Defendants will inform plaintiffs’ counsel of any such delays.

4. After reviewing the documents generated by collection and application of the search terms, including any appropriate modifications in light of paragraph 3, *supra*, Defendants will produce responsive, non-privileged documents to Plaintiffs on a rolling basis. .

5. The defendants reserve the right to seek compensation for the costs of implementation of this Protocol depending on the nature and amounts of those costs.

6. The parties reserve the right to seek modification of this protocol in the future.

The preceding constitutes the agreement reached between the parties to certain matters concerning electronic discovery as of this date.

Dated: August 12, 2022  
New York, New York


For Defendants:

HON. SYLVIA O. HINDS-RADIX  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants*  
100 Church Street, 3<sup>rd</sup> Floor  
New York, New York 10007

s:/Alan Scheiner  
Alan Scheiner  
Senior Counsel  
New York City Law Department

For Plaintiffs:

CUTI HECKER WANG LLP

By:   
Eric Hecker  
John Cuti

Alexander Goldenberg  
Daniel Mullkoff  
305 Broadway, Sixth Floor  
New York, NY 10007  
(212) 620-2602

Alexander A. Reinert  
55 Fifth Avenue, Room 1005  
New York, NY 10003  
(646) 592-6543

*Attorneys for Plaintiffs*